

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JON R. ADAMS,)	
)	
Plaintiff)	
)	
v.)	1:19-cv-00547-GZS
)	
MATTHEW MAGNUSSON, et al.,)	
)	
Defendants)	

**RECOMMENDED DECISION AFTER REVIEW
OF PLAINTIFF’S COMPLAINT**

In this action, Plaintiff, formerly an inmate at the Maine State Prison and now an inmate at the Maine Correctional Center, alleges that Defendants failed to protect him from harm inflicted by another inmate while he was assigned to the prison. (Complaint, ECF No. 5-2.) Defendants consist of the commissioner of the Maine Department of Corrections (Defendant Liberty), the warden of the prison (Defendant Magnusson), and two corrections officers (Defendants Averill and LeClair).

Plaintiff filed his complaint in state court and Defendant Liberty removed the case to this Court. (Notice of Removal, ECF No. 1.) In state court, Plaintiff filed an application to proceed in forma pauperis (ECF No. 5-4), which application the state court granted. (ECF No. 5-9.)

In accordance with the in forma pauperis statute, a preliminary review of Plaintiff’s complaint is appropriate. 28 U.S.C. § 1915(e)(2). Additionally, Plaintiff’s complaint is

subject to screening “before docketing, if feasible or ... as soon as practicable after docketing,” because he is “a prisoner seek[ing] redress from a governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a).

After a review pursuant to 28 U.S.C. §§ 1915 and 1915A, I recommend the Court dismiss Plaintiff’s claims against Defendants Magnusson and Liberty.

DISCUSSION

When a party is proceeding in forma pauperis, “the court shall dismiss the case at any time if the court determines,” *inter alia*, that the action is “frivolous or malicious” or “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B). “Dismissals [under § 1915] are often made sua sponte prior to the issuance of process, so as to spare prospective defendants the inconvenience and expense of answering such complaints.” *Neitzke v. Williams*, 490 U.S. 319, 324 (1989).

In addition to the review contemplated by § 1915, Plaintiff’s complaint is subject to screening under the Prison Litigation Reform Act because Plaintiff currently is incarcerated and seeks redress from governmental entities and officers. *See* 28 U.S.C. § 1915A(a), (c). The § 1915A screening requires courts to “identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim ...; or (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b).

When considering whether a complaint states a claim for which relief may be granted, courts must assume the truth of all well-plead facts and give the plaintiff the benefit of all

reasonable inferences therefrom. *Ocasio-Hernandez v. Fortuno-Burset*, 640 F.3d 1, 12 (1st Cir. 2011). A complaint fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “The relevant question ... in assessing plausibility is not whether the complaint makes any particular factual allegations but, rather, whether ‘the complaint warrant[s] dismissal because it failed *in toto* to render plaintiffs’ entitlement to relief plausible.’” *Rodríguez-Reyes v. Molina-Rodríguez*, 711 F.3d 49, 55 (1st Cir. 2013) (quoting *Twombly*, 550 U.S. at 569 n. 14). Although a pro se plaintiff’s complaint is subject to “less stringent standards than formal pleadings drafted by lawyers,” *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the complaint may not consist entirely of “conclusory allegations that merely parrot the relevant legal standard,” *Young v. Wells Fargo, N.A.*, 717 F.3d 224, 231 (1st Cir. 2013). *See also Ferranti v. Moran*, 618 F.2d 888, 890 (1st Cir. 1980) (explaining that the liberal standard applied to the pleadings of pro se plaintiffs “is not to say that pro se plaintiffs are not required to plead basic facts sufficient to state a claim”).

The Cruel and Unusual Punishment Clause of the Eighth Amendment, as applied to the states through the Fourteenth Amendment, imposes a duty on prison officials to protect inmates from violence at the hands of other inmates. *Lakin v. Barnhart*, 758 F.3d 66, 70 (1st Cir. 2014). “That duty has its origins in the forced dependency of inmates[.]” *Giroux v. Somerset Cty.*, 178 F.3d 28, 31 (1st Cir. 1999). “Having incarcerated ‘persons [with] demonstrated proclivit[ies] for antisocial criminal, and often violent, conduct,’ having stripped them of virtually every means of self-protection and foreclosed their access to

outside aid, the government and its officials are not free to let the state of nature take its course.” *Farmer v. Brennan*, 511 U.S. 825, 833 (1970) (quoting *Hudson v. Palmer*, 468 U.S. 517, 526 (1984)).

To the extent Plaintiff asserts a § 1983 claim against an individual defendant, however, Plaintiff’s allegations must support a finding that the individual, through his or her individual actions, violated Plaintiff’s constitutional rights. *Ashcroft v. Iqbal*, 556 U.S. 662, 676–77 (2009). “This does not mean, however, that for section 1983 liability to attach, a supervisor must directly engage in a subordinate’s unconstitutional behavior.” *Guadalupe-Baez v. Pesquera*, 819 F.3d 509, 515 (1st Cir. 2016). “[L]iability may attach ‘if a responsible official supervises, trains, or hires a subordinate with deliberate indifference toward the possibility that deficient performance of the task eventually may contribute to a civil rights deprivation.’” *Sanchez v. Pereira-Castillo*, 590 F.3d 31, 49 (1st Cir. 2009) (quoting *Camilo–Robles v. Zapata*, 175 F.3d 41, 44 (1st Cir.1999)). In other words, each defendant is entitled to an individualized assessment as to whether Plaintiff has asserted an actionable claim against that defendant.

Here, Plaintiff has not asserted any facts regarding the involvement of Defendants Magnusson and Liberty in the circumstances that resulted in the harm allegedly caused by another inmate. Plaintiff thus has asserted no facts that would support a claim against Defendants Magnusson and Liberty either individually or in their official capacities. Accordingly, dismissal of Defendants Magnusson and Liberty as parties to this action is warranted.

CONCLUSION

Based on the foregoing analysis, after a review pursuant to 28 U.S.C. §§ 1915 and 1915A, I recommend the Court dismiss Plaintiff's claims against Defendants Magnusson and Liberty.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 27th day of December, 2019.